

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

FILED BY CLERK

JUN -7 2012

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	2 CA-CR 2011-0365
)	DEPARTMENT B
Appellee,)	
)	<u>MEMORANDUM DECISION</u>
v.)	Not for Publication
)	Rule 111, Rules of
ERICA LEA WHITE,)	the Supreme Court
)	
Appellant.)	
_____)	

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR20072680

Honorable Deborah Bernini, Judge

AFFIRMED

Lori J. Lefferts, Pima County Public Defender
By Robert J. McWhirter

Tucson
Attorneys for Appellant

V Á S Q U E Z, Presiding Judge.

¶1 After a jury trial in absentia, appellant Erica White was convicted of aggravated driving with an alcohol concentration of .08 or more while her license was suspended. The trial court sentenced White to a “slightly mitigated” term of imprisonment of two years and four months. Counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999), stating he has reviewed the record and has “found no arguably meritorious issue for appeal.”¹ Counsel has asked us to search the record for fundamental error. White has not filed a supplemental brief.

¶2 Viewed in the light most favorable to sustaining the verdict, the evidence was sufficient to support the jury’s finding of guilt. *See State v. Tamplin*, 195 Ariz. 246, ¶ 2, 986 P.2d 914, 914 (App. 1999). The evidence presented at trial showed a Tucson police officer initiated a traffic stop after observing White speeding and weaving in and out of her lane. Upon speaking to her, he noticed signs of impairment. He then conducted field sobriety tests, which White performed poorly, and administered breath tests, which showed White had a blood alcohol level of .137 and .145. White’s driver license was suspended at the time of the stop. We further conclude the sentence imposed is within the statutory limit. *See* A.R.S. §§ 13-702, 28-1381, 28-1383.

¹Contrary to *Clark*’s requirement, although counsel has detailed the procedural history of the case, he refers only briefly to its factual history. 196 Ariz. 530, ¶ 30, 2 P.3d at 96. Nonetheless, his brief assures us that he has “thoroughly reviewed the record,” *id.* ¶ 32, and we therefore accept it, but we advise counsel to provide a more detailed factual statement in the future.

¶3 Pursuant to our obligation under *Anders*, we have searched the record for fundamental, reversible error and have found none. Therefore, White’s conviction and sentence are affirmed.

/s/ Garye L. Vásquez
GARYE L. VÁSQUEZ, Presiding Judge

CONCURRING:

/s/ Philip G. Espinosa
PHILIP G. ESPINOSA, Judge

/s/ Virginia C. Kelly
VIRGINIA C. KELLY, Judge